



Docket No.: O2911.0007/P043-D  
(PATENT) *#13*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Reissue Patent Application of:  
John R. Plate, et al.

Application No.: 09/335,377

Group Art Unit: 3611

Filed: June 17, 1999

Examiner: Eric D. Culbreth

For: FORKLIFT STABILIZING APPARATUS

REQUEST FOR RECONSIDERATION

Box AF  
Commissioner for Patents  
Washington, DC 20231

RECEIVED  
MAY 31 2002  
GROUP 3600

Dear Sir:

*Enter on Appeal*  
In response to the Office Action dated November 28, 2001 (Paper No. 10), please reconsider the above-referenced application in light of the following remarks.

The Amendment filed on September 24, 2001 is objected to under 35 U.S.C. § 132 as containing new matter. The Office Action suggests that there is no support in the original disclosure for an "inclination switch operatively connected to the hydraulic cylinder," as recited in claim 25. Reconsideration is respectfully requested.

Applicants direct the Examiner's attention to Figures 9 and 10, together with column 11, line 56 through column 14, line 16 of the specification. The specification says that "an inclination switch SW7 is connected between terminal 330 ... and ground 329 and [terminal] 'E' of [the] inclination relay." According to the original disclosure, "[t]he [inclination] switch SW7 is of a well-known type which closes when the vehicle tilts at a predetermined angle." Column 14, lines 3 and 4, emphasis added. With reference to Figure 10, inclination switch SW7 closes to energize the inclination relay, moving contact

“C” to contact “A” and moving contact 330 to contact 324. This “clos[es] valves 291’ - 295’ and plac[es] valve 273 in its cross flow position so that the rear axle is locked.”

Column 14, lines 9-13.

With reference to Figure 9, solenoid valves 291 – 295 and solenoid control valve 273 are illustrated as being interconnected by a series of conduits. (Note that 291’ - 295’ are electrical coils of solenoid valves 291 – 295.) Figure 9 also illustrates a frame tilt cylinder 150 and frame stabilizer cylinder 152 which are connected to a hydraulic system. Column 11, lines 62-67. Cylinders 150 and 152, as disclosed by the example in the specification, are hydraulic cylinders. Finally, cylinders 150 and 152 are connected, for example, via conduits 288, 303 and 306 to solenoid valves 273, 292 and 293, respectively, which are electrically connected to the inclination switch SW7. The foregoing is only an exemplary arrangement for the components of the invention, as other arrangements are possible.

Thus, a connection comprised of electrical and mechanical links is disclosed between the inclination switch SW7 and hydraulic cylinders 150 and 152. The specification therefore provides ample support for an “inclination switch operably connected to [the] hydraulic cylinder,” as recited in claim 25. Applicants request that the rejection of claim 25 be withdrawn, and submit that the claim is in immediate condition for allowance.

Claims 20-21 stand rejected under 35 U.S.C. § 103 as being unpatentable over Schuetz in view of Laverda. Reconsideration is respectfully requested for the following reasons.

Claim 20 recites a vehicle comprising a “system for locking [the] axle relative to [the] frame when [the] frame is tilted by more than a predetermined angle.” This is an important feature of the present invention. For example, the specification says that “when flow control valves 124 and 124’, are each in the first position the rear axle assembly 62

becomes rigid and generally immovable relative to the main frame 12.” See Figure 2 and column 7, lines 22-24.

Laverda, on the contrary, discloses a machine having a self-leveling system capable of ceasing the self-leveling operation in the event of excessive inclination. Contrary to the Office Action, Laverda does not disclose or suggest a “system (valves 14, 18) for locking the axle relative to the frame when the frame is tilted more than a predetermined angle.” Office Action, paragraph 5, emphasis added.

In Laverda, when the self-leveling system float switches 20 or 20’ close the circuit, electro-valve 14 is operated to direct hydraulic fluid flow into opposite ends of two cylinders 5 and 5’ to counter the inclination of the machine’s body. When the inclination becomes more severe, a second set of float switches 21 or 21’ close, thereby energizing electro-valve 18 in addition to electro-valve 14. Electro-valve 18 functions to permit more hydraulic fluid flow through the electro-valve 14 and into the cylinders 5 and 5’, thereby increasing the rate of self-leveling. Laverda further discloses limit switches 34 and 34’, mounted to the machine body, which are actuated when inclination reaches its maximum limit. When switches 34 or 34’ close, the current is cut off so that “the two electro-valves 14 and 18 remain in their rest positions and the hydraulic circuit is inoperative.” Column 3, lines 45-51. The “rest position” of electro-valve 14, which appears to have three positions, is not defined in the Laverda specification.

Thus, Laverda does not disclose a system for “locking” an axle to a frame, but rather a system that ceases automatic self-leveling control. To the contrary, Laverda’s system simply shuts off supply of hydraulic fluid to cylinders 5 and 5’. Conduit cross-connections 15, 15’, 16 and 16’ in Laverda are not isolated by electro-valves 14 or 18 and therefore the axle 3 is not locked to the machine’s frame. The Laverda machine’s frame may continue to tilt or level with respect to the axle after the self-leveling system is shut off.

Schuetz is not relied upon by the Office Action to teach the above-discussed limitation, but only to teach a movable support for supporting a load. Indeed, Schuetz

adds nothing to Laverda to remedy the deficiency discussed above. For at least this reason, the cited references, taken alone or in combination, fail to render obvious claim 20.

Additionally, as previously stated, Applicants maintain that no motivation exists to combine the teachings of Schuetz and Laverda. Schuetz discloses a wheeled material handler, with a frame 10, four wheels 11, and a pivoted shovel 17. When the Schuetz material handler is moving across the terrain (i.e., during transport), the cylinders 25 are unblocked such that the frame 10 is movably supported on the wheels 11 by torsion bars 20. In other words, when the Schuetz machine is in a supported, resting position, the cylinders 25 are used to level and lock the frame 10 relative to the wheels 11. When the material handler is being transported from place to place, the wheels 11 are freed from the operation of the cylinders 25, such that the wheels “move against their springs [20] in the usual manner.”

The prior art references, even when considered in combination, fail to suggest any motivation for employing the Laverda leveling system in the Schuetz material handler. Laverda suggests the desirability of maintaining the main body of a combine in a level condition. Neither reference suggests any reason why the Laverda automatic leveling system should be considered applicable or advantageous to a material handler of the type shown by Schuetz. Combines of the type disclosed by Laverda are operated on the move. Ditchers and diggers of the type taught by Schuetz are operated in a stand-still position. Without the benefit of Applicants’ own disclosure, there is no reason why a system for automatically controlling the orientation of the main body of a combine should be considered applicable to a material handler of the type taught by Schuetz. For this additional reason, Applicants respectfully submit that the rejection of claim 20 should be withdrawn.

Claim 21 depends from claim 20 and contains every limitation of claim 21. Claim 21 should be allowable for at least the reasons for allowance of claim 20 recited above.

Applicants acknowledge with appreciation the allowance of claims 1-19, 22-24, and 26-33. In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of claims 20, 21 and 25 and to pass this application to issue.

Dated: May 28, 2002

Respectfully submitted,

By Peter A. Veytsman # 45,920

Mark J. Thronson

Registration No.: 33,082

Peter A. Veytsman

Registration No.: 45,920

DICKSTEIN SHAPIRO MORIN &

OSHINSKY LLP

2101 L Street NW

Washington, DC 20037-1526

(202) 785-9700

Attorneys for Applicant